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BY ECF:

Hon. Kiro A. Matsumoto
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Ashraf v. Laboratory Corporation of America Holdings, et al., 17 CV 5956 (KAM)

Your Honor:

I am counsel to the plaintiffs in the above-referenced action and I write to respond to the City's letter motion of yesterday, which seeks a seven-week extension of the time to respond to the Complaint. This request, in my view, is excessive. Indeed, it seeks a longer extension than the one to which the City's counsel requested my consent.

On October 26, the City asked plaintiff to consent to an extension of time until December 15. When I asked the reason for the extension, counsel refused to give a reason. Instead, they threatened to inform the Court that my response was "as follows: 'Do you have a reason why you need the extension?'" though that was obviously not my response. I then, purely out of courtesy, agreed to a 20-day extension, which would be until December 1.

The reasons for a longer extension, which Ms. Weinblatt now offers, are not compelling. If the City wants to move for a change of venue "on the ground that this matter is sufficiently related to two matters in the S.D.N.Y., i.e., Nnebe v. Daus, 06-cv-4991 (RJS) and Rothenberg v. Daus, No. 08-CV-00567 (SHS), No. 08-CV-00567 (SHS)," they would know that already. (The same counsel represents the defendants in both cases and I am co-counsel in both cases.) In truth, there are no grounds for a change of venue as this action was commenced by a different plaintiff alleging different wrongs than those at issue in Nnebe and Rothenberg. Those case are also both far along. In Rothenberg, a settlement is pending court approval. In Nnebe, there has been an appeal, a remand and a trial. (That said, if the City really prefers the S.D.N.Y., plaintiffs would consent to a change in venue on the condition that there be no resulting delay; we would not, however, concede that this case is related to Nnebe or Rothenberg.) The City's other reasons, such as childcare obligations and other deadlines, are simply part of everyday life as a lawyer and a parent. If these particular attorneys are overburdened, the NYC Law Department has hundreds of lawyers on staff.

Counsel does not even say why the City needs seven weeks (until December 29) rather than the four weeks it proposed originally. I note as well that the other defendant, Laboratory Corporation of America Holdings, has not requested any extension, though their counsel has been in touch with me and seems to be investigating plaintiff's claims. For these reasons, we respectfully submit that a 20-day extension is sufficient.

Respectfully submitted,

/s/

Daniel L. Ackman

cc: Amy Weinblatt, Esq. and Mary O'Sullivan, Esq. (by ECF)
Robert Steiner, Esq. (by e-mail)